

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Unlicensed Activity of:

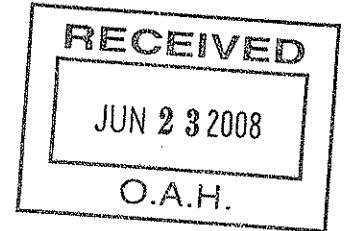
No. 08F-BD067-BNK

3 **CEDRIA E. KING DBA RC RECOVERY**
4 **SERVICES AND CEDRIA E. KING,**
5 **OWNER**

7412 S. 319th Avenue
Tonopah, AZ 85354

NOTICE OF HEARING

6 Petitioners.



8 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137,
9 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of
10 Administrative Hearings, an independent agency, and is scheduled for July 28, 2008, at 9:00 a.m., at
11 the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602)
12 542-9826 (the "Hearing").

13 The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order
14 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
15 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
16 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
17 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an
18 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
19 collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

20 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
21 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
22 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
23 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
24 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
25 of Administrative Hearings has designated Michael G. Wales, at the address and phone number
26 listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona

1 Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08,
2 the Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing,
3 final decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative
4 Law Judge is specifically prohibited from entering.

5 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
6 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
7 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
8 Administrative Hearings.

9 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
10 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
11 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
12 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
13 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
14 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

15 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
16 made by a court reporter or by electronic means. Any party that requests a transcript of the
17 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

18 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
19 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

20 **NOTICE OF APPLICABLE RULES**

21 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
22 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
23 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
24 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
25 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
26 R2-19-122. A copy of these rules is enclosed.

Pursuant to A.A.C. R20-4-1209, Petitioners shall file a written answer **within twenty (20) days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioners' position or defense and shall specifically admit or deny each of the assertions contained in this Notice of Hearing. If the answering Petitioners are without or are unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioners intend to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioners shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised in the answer is deemed waived.

If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioners will be deemed in default and the Superintendent may deem the findings in this Notice of Hearing as true and admitted and the Superintendent may take whatever action is appropriate, including issuing an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies in Arizona pursuant to A.R.S. §§ 6-123 and 6-131; and imposing a civil money penalty pursuant to A.R.S. § 6-132.

Petitioners' answer shall be mailed or delivered to the Arizona Department of Financial Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

Persons with disabilities may request reasonable accommodations such as interpreters, alternative format or assistance with physical accessibility. Requests for accommodations must be made as early as possible to allow time to arrange the accommodations. If accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

FACTS

1. Petitioner Cedria E. King dba RC Recovery Services ("RCRS") is an Arizona sole

1 proprietorship that is not authorized to transact business in Arizona as a collection agency within the
2 meaning of A.R.S. §§ 32-1001. *et seq.* The nature of RCRS's business is that of soliciting claims for
3 collection and collection of claims owed, due, or asserted to be owed or due within the meaning of
4 A.R.S. § 32-1001(A)(2)(a).

5 2. Petitioner Cedria E. King ("Ms. King") is the Owner of RCRS and is not authorized
6 to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001
7 *et seq.*

8 3. RCRS and Ms. King are not exempt from licensure as a collection agency within the
9 meaning of A.R.S. § 32-1004(A).

10 4. On September 8, 2003, the Arizona Department of Revenue ("ADOR") forwarded a
11 copy of a letter to the Department received from RCRS inquiring about the need for a collection
12 agency license to collect default judgments in Arizona. Upon receipt of the letter from ADOR the
13 Department sent a letter to RCRS and Ms. King on September 22, 2003, requesting a response
14 regarding the possibility that RCRS was already engaged in the business of a collection agency. A
15 second letter was sent by the Department on October 9, 2003, when no response was received. On
16 October 15, 2003, the Department received a response from RCRS and Ms. King. The Department
17 did not find RCRS to be in violation of the governing statute and on November 25, 2003, the
18 Department issued a collection agency license to RCRS, #0905939. On February 1, 2005, the
19 Department closed RCRS's collection agency license for failing to renew.

20 5. On September 5, 2007, the Department received a complaint letter from a client of
21 RCRS who included a copy of an Acknowledgment of Assignment of Judgment. The document was
22 signed by the complainant on September 9, 2006, and authorizes RCRS to collect Maricopa County
23 Superior Court Case No. FN2004-091488 on behalf of the complainant and entitles RCRS to receive
24 50% of the amount recovered. The complainant stated that she has experienced difficulty in
25 obtaining an accurate accounting of monies RCRS has collected on her behalf. The Case
26 Information sheet from the Superior Court's website for Justice Court lists a number of cases that

1 judgment creditors have assigned to RCRS as the third party collector, while RCRS was unlicensed.

2 6. On October 12, 2007, the Department sent a letter to RCRS and Ms. King, stating that
3 a complaint had been filed with the Department by a California resident, requesting that RCRS and
4 Ms. King provide to the Department an accurate accounting of all funds collected on the
5 complainant's behalf and a copy of the contract between RCRS and the complainant.

6 7. On October 15, 2007, RCRS responded by stating that on September 9, 2007 RCRS
7 purchased Maricopa County Superior Court judgment number FN2004-091488 on a future pay
8 basis. In its response, RCRS included a signed Agreement For Assignment or Purchase of
9 Judgment, dated August 24, 2006, whereby RCRS purchased the outstanding \$11,576.96 judgment
10 for \$10.00. The agreement requires RCRS to remit 50% of the amount collected to the Judgment
11 Creditor, and 50% to RCRS. Additionally; the agreement allows RCRS to deduct any fees that were
12 incurred such as court service, document fees and the like. RCRS stated that \$6,000.00 has been
13 recovered on behalf of the Judgment and after \$148.50 in collection expenses RCRS owes the
14 complainant \$2,925.75 but cannot pay her since they do not have her current address.

15 8. On January 2, 2008, RCRS provided to the Department copies of twenty-one (21)
16 Assignments of Judgment which were assigned to RCRS for collection by Judgment Creditors
17 between February 2007 and December 2007, totaling \$182,354.12. Of that total, two Assignments
18 reflected receipt of payments to the judgments, bringing the total amount to be collected by RCRS to
19 \$179,114.12. The Department received supporting documentation regarding the twenty-one (21)
20 files from RCRS on March 11, 2008.

21 9. Based upon the above findings, the Department issued and served upon RCRS and
22 Ms. King an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of
23 Order ("Cease and Desist Order") on May 1, 2008.

24 10. On May 28, 2008, Petitioners filed a Request For Hearing to appeal the Cease and
25 Desist Order.

26 ...

LAW

1. Pursuant to A.R.S. Title 6, Chapter 12 and Title 32, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the collection agency business and with the enforcement of statutes, rules, and regulations relating to collection agencies.

2. By the conduct set forth in the Findings of Fact, RCRS and Ms. King violated the following:

- a. A.R.S. § 32-1021(A) by failing to make an original application to the Department upon forms prescribed by the Superintendent before conducting collection agency activity; and
- b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without having first applied for and obtained a license.

3. RCRS and Ms. King are not exempt from licensure as a collection agency within the meaning of A.R.S. § 32-1004(A).

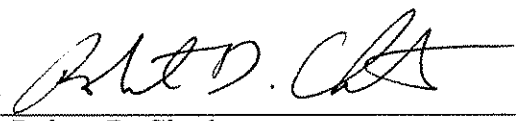
4. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations, the Superintendent may issue a cease and desist order pursuant to A.R.S. § 6-137; affirm the May 1, 2008 Cease and Desist Order, or impose a civil money penalty pursuant to A.R.S. § 6-132; and order any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

...

1 DATED this 23 day of June, 2008.

2 Felecia A. Rotellini
3 Superintendent of Financial Institutions

4 By 
5 Robert D. Charlton
6 Assistant Superintendent of Financial Institutions

7 ORIGINAL of the foregoing filed this 23rd
8 day of June, 2008, in the office of:

9 Felecia A. Rotellini
10 Superintendent of Financial Institutions
11 Arizona Department of Financial Institutions
12 ATTN: Susan L. Ross
13 2910 N. 44th Street, Suite 310
14 Phoenix, AZ 85018

15 COPY mailed/delivered same date to:

16 Michael G. Wales, Administrative Law Judge
17 Office of Administrative Hearings
18 1400 West Washington, Suite 101
19 Phoenix, AZ 85007

20 Craig A. Raby, Assistant Attorney General
21 Office of the Attorney General
22 1275 West Washington
23 Phoenix, AZ 85007

24 Richard Fergus, Division Manager
25 Richard Traveler, Senior Examiner
26 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

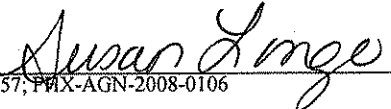
AND COPY PERSONALLY SERVED by
process server and MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

Cedria E. King dba RC Recovery Services
and Cedria E. King, Owner
7412 S. 319th Avenue
Tonopah, AZ 85354
Petitioners

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Cedria E. King dba RC Recovery Services
4 and Cedria E. King, Owner
5 P.O. Box 1357
6 Buckeye, AZ 85326
7 Petitioners

8 Cynthia Fulton, Esq.
9 Fulton & Friedman, PLLC
10 130 N. Central Avenue, Suite 200
11 Phoenix, AZ 85004
12 Attorneys for Petitioners

13 
14 _____
15 223757; PHX-AGN-2008-0106